

## **§ 786.150**

percent of the time worked by the employee during the workweek.

[32 FR 15426, Nov. 4, 1967]

### **Subpart D—Employers Subject to Part 1 of Interstate Commerce Act**

#### **§ 786.150 Enforcement policy concerning performance of nonexempt work.**

The Division has taken the position that the exemption provided by section 13(b)(2) of the Fair Labor Standards Act will be deemed applicable even though some nonexempt work (that is, work of a nature other than that which characterizes the exemption) is performed by the employee during the workweek, unless the amount of such nonexempt work is substantial. For enforcement purposes, the amount of nonexempt work will be considered substantial if it occupies more than 20 percent of the time worked by the employee during the workweek.

[13 FR 1377, Mar. 17, 1948]

### **Subpart E—Taxicab Operators**

#### **§ 786.200 Enforcement policy concerning performance of nonexempt work.**

The Division has taken the position that the exemption provided by section 13(b)(17) of the Fair Labor Standards Act will be deemed applicable even though some nonexempt work (that is, work of a nature other than that which characterizes the exemption) is performed by the employee during the workweek, unless the amount of such nonexempt work is substantial. For enforcement purposes, the amount of nonexempt work will be considered substantial if it occupies more than 20 percent of the time worked by the employee during the workweek.

[32 FR 15426, Nov. 4, 1967]

### **Subpart F—Newspaper Publishing**

#### **§ 786.250 Enforcement policy.**

The exemption provided by paragraph 13(a)(8) of the Fair Labor Standards Act of 1938 applies to “any employee employed in connection with the publication of any weekly, semi-

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weekly, or daily newspaper with a circulation of less than four thousand the major part of which circulation is within the county where published or counties contiguous thereto.” For the purpose of enforcement, it is the Divisions’ position that such an employee is within the exemption even though he is also engaged in job printing activities. If less than 50 percent of the employee’s worktime during the workweek is spent in job printing work, some of which is subject to the Act. If none of the job printing activities are within the general coverage of the Act, the exemption applies even if the job printing activities equal or exceed 50 percent of the employee’s worktime. However, this exemption is not applicable if the employee spends 50 percent or more of his worktime in a workweek on job printing, any portion of which is within the general coverage of the Act on an individual or enterprise basis.

[32 FR 15426, Nov. 4, 1967]

### **Subpart G—Youth Opportunity Wage**

#### **§ 786.300 Application of the youth opportunity wage.**

Section 6(g) of the Fair Labor Standards Act allows any employer to pay any employee who has not attained the age of 20 years a wage of not less than \$4.25 an hour during the first 90 consecutive calendar days after such employee is initially employed by such employer. For the purposes of hiring workers at this wage, no employer may take any action to displace employees, including partial displacements such as reducing hours, wages, or employment benefits. Any employer that violates these provisions is considered to have violated section 15(a)(3) of the Act.

[76 FR 18860, Apr. 5, 2011]

### **Subpart H—Volunteers at Private Non-Profit Food Banks**

#### **§ 786.350 Exclusion from definition of “employee” of volunteers at private non-profit food banks.**

Section 3(e)(5) of the Fair Labor Standards Act excludes from the definition of the term “employee” individuals who volunteer their services solely